

# **Fiscal Services Division**

## **Legislative Services Agency**

### **Fiscal Note**

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SF 2378 - Public Records/Open Meetings Omnibus (LSB 5233 SV)

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Fiscal Note Version - New

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#### **Description**

Senate File 2378 modifies current open meetings and public records laws under Chapters 21, 22 and 305, Code of Iowa. The Bill creates the Iowa Public Information Board that will provide an enforcement alternative for complaint proceedings and provides that the Board shall have five members appointed by the Governor and may hire the staff necessary to execute its authority. The Bill creates the new Board in FY 2009 and requires the Board to report on its goals, performance measures, and job descriptions to the General Assembly and the Governor by July 1, 2009. The Board may not begin hiring employees until FY 2010.

The Bill repeals criminal penalties under the chapters, but increases civil penalties for violations. Under current law the civil penalties are a minimum of \$100 and maximum of \$500. The Bill increases the minimum and maximum amounts to \$1,000 and \$2,500, respectively.

#### **Assumptions**

This analysis assumes the following regarding staffing and support costs for the Board:

- The Board will have 6.0 FTE positions in FY 2010, but will grow to 10.0 FTE positions by FY 2012.
- The attorneys hired for the Board staff will handle the majority of the components the Board must do, including mediation, hearings, and training/education. In addition, it is assumed that the Executive Director will be the Legal Counsel for the Board (similar to the Ethics and Campaign Disclosure Board). Likewise, it is assumed that the attorneys will oversee hearings as well, rather than hiring or contracting with outside administrative law judges.
- Informal resolution tactics such as phone calls and letters between the agency designated in the complaint and the complainant are assumed to be part of the duties of new Board's permanent staff and are included in the salary estimates.
- Support costs would include one time charges for ICN setup and office equipment of \$103,980 and ongoing costs of \$55,760 – 63,960 per year.

Finally, based on the disposition of cases in a similar agency in Connecticut and the Office of Iowa Citizens' Aide/Ombudsman, it is assumed that the new Board will initially receive approximately 350 cases, of which approximately 31.6% or 110 cases may go to hearing, 39.4% or 137 cases may go through mediation, and potentially 57 cases, or 16.2% could have violations found.

#### **Fiscal Impact**

The new Board will need to receive a General Fund appropriation for its operating expenses. For FY 2009, the estimated costs are minimal due to the Board being in its transitional phase and expected expenditures will be for per diem and travel related expenses only.

The following is a breakdown of estimated operating costs for FY 2009 through FY 2012:

	Estimated FY 2009	Estimated FY 2010	Estimated FY 2011	Estimated FY 2012
Salaries/Benefits	\$ 0	\$ 472,000	\$ 619,030	\$ 767,762
Office space	0	18,600	18,600	18,600
One time setup new office charges - ICN	0	3,980	0	0
One time setup new office furniture and equipment	0	100,000	0	0
Travel expenses, Board per diem, Training	6,000	11,000	12,000	13,000
Administrative and technology costs	0	26,160	28,960	32,360
<b>Total</b>	<b>\$ 6,000</b>	<b>\$ 631,740</b>	<b>\$ 678,590</b>	<b>\$ 831,722</b>
FTEs estimated	0	6.0	8.0	10.0

### Court Fines

The Bill repeals criminal penalties. The Bill increases the civil penalty damage amounts for violations of the open meetings and public records laws. Currently the amount of penalties that are enforced by the judicial system is negligible, and it is unclear how many would be enforced under the changes in the public records and open meetings law. If there are 350 complaints, of which 16.2% or 57 cases are found to have violations, there is a potential for additional penalties collected between \$57,000 and \$142,500 per year.

### The Office of the Attorney General (AG)

The AG advises that if the cases go through the AG Office for judicial review, the expectation is that fiscal impact will be approximately \$23,725 - \$47,450 for 0.25 to 0.5 of an FTE position for an assistant attorney general to handle the work. The proposed Board has the option to use the AG's office or to represent itself in judicial proceedings.

### Local Governments

Estimated costs for local governments to comply with the revised laws and to handle representation of its agencies under the new enforcement mechanism are unknown.

### Sources

Office of Citizens' Aide/Ombudsman  
Department of Administrative Services  
Department of Management  
Ethics and Campaign Disclosure Board  
Connecticut's Freedom of Information Commission  
Iowa Freedom of Information Council  
Iowa Communications Network  
LSA Calculations and Research

/s/ Holly M. Lyons

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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